

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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FRANK M. PECK,

Plaintiff,

v.

THOMAS, *et al.*,

Defendants.

3:09-cv-00381-LRH-VPC

ORDER

Before this Court is the Report and Recommendation of U.S. Magistrate Judge Valerie P. Cooke (#37¹) entered on August 24, 2011, recommending granting in part and denying in part Defendants' Motion to Dismiss (#32) filed on April 12, 2011. Plaintiff filed his Objections to Magistrate Judge's Report and Recommendation (#38) on September 6, 2011, and Defendants filed their Response to Plaintiff's Objections to Magistrate Judge's Report and Recommendation on September 22, 2011 (#40). Plaintiff then filed his Reply to Response to Objection to Magistrate Judge's Report and Recommendation (#41) on October 5, 2011. This action was referred to the Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 1B 1-4 of the Rules of Practice of the United States District Court for the District of Nevada.

The Court has conducted its *de novo* review in this case, has fully considered the objections of

¹Refers to court's docket number.

1 the Plaintiff, the pleadings and memoranda of the parties and other relevant matters of record pursuant
2 to 28 U.S.C. § 636 (b) (1) (B) and Local Rule IB 3-2. The Court determines that the Magistrate
3 Judge's Report and Recommendation (#37) entered on September 24, 2011, should be adopted and
4 accepted.

5 IT IS THEREFORE ORDERED that the Magistrate Judge's Report and Recommendation (#37)
6 entered on August 24, 2011, is adopted and accepted, and Defendants' Motion to Dismiss (#32) is
7 GRANTED in part and DENIED in part as follows:

- 8 ● Defendants' Motion to Dismiss as to Plaintiff's excessive force claim against defendant John
9 Doe #2 for threatening him and Plaintiff's Fifth and Fourteenth Amendment claims is
10 GRANTED;
- 11 ● Defendants' Motion to Dismiss as to all other claims is DENIED.

12 IT IS SO ORDERED.

13 DATED this 8th day of November, 2011.

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17 LARRY R. HICKS
18 UNITED STATES DISTRICT JUDGE
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